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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/707,809 | 01/14/2004 | Jesse Marcelle | 27475/05203 | 1808 |

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

| EXAMINER | |
|---|---|
| GALL, LLOYD A | |
| **ART UNIT** | **PAPER NUMBER** |
| 3676 | |

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/707,809 | MARCELLE ET AL. | |
| | Examiner | Art Unit | |
| | Lloyd A. Gall | 3676 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *24 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,4,5,7,8,12-17 and 19-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4,5,7,8,12-17 and 19-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

Claims 19, 20 and 25 are objected to because of the following informalities: In claim 25, line 1, "lock out" should be one word for consistency. In claim 19, In claim 19, paragraph )c), and in viewing paragraph 0029 of the specification and figures 6, 7A and 7B, it is not clear in what sense the portion 72 in fig. 6 extends into the track. Further, as seen in fig. 7B, it is not clear in what sense 70 engages "edge 72" (see paragraph 0029, line 11). See also claim 20, lines 5-10. In claim 20, the last two lines, "further rotational movement" is not clear, as rotational movement had not been previously claimed. Appropriate correction is required.

In view of the above objections to claims 19 and 20, these claims are rejected as best understood, on prior art, as follows.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Shipman.

Shipman teaches a lockout device including an inner piece 9, an outer piece 7, a recessed surface (claim 16) in the outer surface 72 of the inner piece which receives channels 68, 69, a T-shaped rail 75, 76 on the outer surface of the inner piece which is received in a track 50, 51 of the inner surface of the outer piece as seen in fig. 4. The lockout device is capable of being locked to the frame 86 as set forth in column 5, line

38. The top and bottom of the inner and outer piece are regarded as providing an opening which is capable of accommodating an object with the enclosure as seen in fig. 3.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shipman in view of Anderson.

Anderson teaches a lock including padlocked tab members 21, 23, each having aligned plural openings 51, 57 to receive the legs of the shackle of the padlock. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute tabs and a padlock for the lock of Shipman, in view of the teaching of Anderson, the motivation being to allow the removable padlock to be used in locking another article when the closure of Shipman is not in a locked condition.

Claims 1, 4, 5, 7, 8 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood in view of Ryan et al and Shipman.

Wood teaches a lockout device having an inner piece 30 within an outer piece 26 in the shape of half cylinders, an opening in the bottom of the pieces to receive a steering wheel therein, a circumferential wall and side walls on both pieces, one or more tabs 14, 17, 11, 23, 3, and openings in the tabs 23, 3 as seen in fig. 5A which receive screws 24, an interlock 14, 17, 11 (claim 5), and a recessed surface below flange 21 in fig. 4. Ryan

et al teaches that it is well known in the steering wheel lockout device art to provide a rail and track 22, 23 (fig. 5) between inner and outer telescoping pieces. Shipman teaches a T-shaped rail and track, as set forth above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a T-shaped rail on the inner piece and a track on the outer piece of Wood, in view of the respective teachings of Ryan et al and Shipman, the motivation being to prevent any free play and rattling between the pieces of Wood.

Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood in view of Ryan, Shipman and Wilk.

Wood, Ryan and Shipman have been discussed above. Wilk teaches an interlock for a T-shaped rail 50 and track 48 (fig. 4) between telescoping pieces, wherein the track is closed at its ends as seen in fig. 1. Accordingly, the free end face of the T-shaped track defines a crossmember which engages the closed end of the track, which closed end is regarded as an extended portion extending into the track to engage the crossmember (end face of the rail0. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a T-shaped rail on the inner piece and a track on the outer piece of Wood, in view of the respective teachings of Ryan et al and Shipman, the motivation being to prevent any free play and rattling between the pieces of Wood. It would have been obvious to one of ordinary skill in the art at the time the invention was made to close the track of the modified Wood reference such that the T-shaped rail abuts the track in the closed position, in view of the teaching of Wilk, the motivation being to serve as a stop when the pieces are in their proper closed condition.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shipman in view of Wilk.

Shipman and Wilk have been discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to close the end of the track 50, 51 of Shipman to engage the T-shaped rail in the closed condition, in view of the teaching of Wilk, the motivation being to serve as a stop when the pieces are in their closed condition.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shipman in view of Wilk as applied to claim 20 above, and further in view of Anderson.

Anderson has been discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute locking tabs and a padlock for the lock device of Shipman, the motivation being to allow a removable padlock to be used in locking another article when the closure of Shipman is not in a closed condition.

Claims 23, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shipman in view of Howisen.

Shipman teaches inner and outer pieces 9, 7 as set forth above including a T-shaped rail 75, 76 and track 50, 51, a recessed surface to receive the channels 68, 69, and an opening at the ends of the pieces which is capable of receiving an object.. Howisen teaches a T-shaped rail 230 and a track 220 at an approximate center of interlocking pieces. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a T-shaped rail and track at the approximate center of

the pieces of Shipman, in view of the teaching of Howisen, the motivation being to increase the stability of the connection between the pieces of Shipman.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shipman in view of Howisen as applied to claim 23 above, and further in view of Anderson. Anderson has been discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute tabs and a padlock for the lock device of Shipman, in view of the teaching of Anderson, the motivation being to allow a removable padlock to be used in locking another article when the closure of Shipman is not in a closed condition.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shipman in view of Howisen as applied to claim 23 above, and further in view of Wilk. Wilk teaches an interlock including a crossmember and track, as set forth above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an interlock for the pieces of Shipman, in view of the teaching of Wilk, the motivation being to serve as a stop when the pieces are in their proper closed condition.

Applicant's arguments with respect to claims 1, 4, 5, 7, 8, 12-17 and 19-27 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 571-272-7056. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LG LG
June 10, 2005

Lloyd A. Gall
Primary Examiner